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Ambrose Jacob Spinnler Benade

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EXAMINER

MEHTA, HONG T

ART UNIT

PAPER NUMBER

1789

NOTIFICATION DATE

DELIVERY MODE

10/19/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

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*Advisory Action*

Applicant argues that one of ordinary skill in the art would not consider peanut flour and soy flour to be interchangeable as further evidenced by the enclosed articles. This argument is not persuasive.

The rejection set forth in the last office action relies upon Sessoms for the general teaching of using soy flour as a protein source in a nutritional spread. Rudan is relied upon for teaching an effective amount of protein flour content in a nutritional spread. Rudan teaches a protein content range of 10% to 24% from a protein source such as peanut flour in a nutritional spread. The amount of protein spread taught by Rudan overlaps with that of the instant claims. Rudan is not relied upon for substituting Rudan's peanut flour for soy flour in Sessoms' nutritional spread (please refer to the first full sentence on page 4 of the final office action dated April 28th, 2010).

Given that both references teach spreads with protein sources in the form of flours, and Rudan teaches that the protein source may be provided in a specific range and effectively used to form a spread, it would have been obvious to one of ordinary skill in the art to use the amount of flour of Rudan as guidance for an effective amount of flour that can be used in Sessoms. The references were not combined in a manner that one material is substituted for another.

Art Unit: 1789

Additionally, Sessoms recognizes that the range of protein to be added to the spread is dependent upon the amount of protein desired in the supplement (col. 3, lines 1—14).

/HONG MEHTA/

Examiner, Art Unit 1789

/Jennifer C McNeil/

Supervisory Patent Examiner, Art Unit 1784